



**NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT – II  
CHENNAI**

**ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL  
COMPANY LAW TRIBUNAL, CHENNAI BENCH, HELD ON 10.03.2026 AT  
10.30 A.M. THROUGH VIDEO CONFERENCING:**

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**PRESENT: SHRI. JYOTI KUMAR TRIPATHI, HON'BLE MEMBER (JUDICIAL)  
SHRI. RAVICHANDRAN RAMASAMY, HON'BLE MEMBER (TECHNICAL)**  
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**PETITION NUMBER : CP(CAA)/48/(CHE)2025**

**APPLICATION NUMBER : CA(CAA)/4(CHE)2025**

**NAME OF THE APPLICANT : Helios Strategic Systems Ltd**

**NAME OF THE RESPONDENT(S) : --**

**UNDER SECTION : Sec 230 to 232 of CA, 2013**  
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**ORDER**

Present : Ld. Counsel for the Petitioner.

Vide separate order pronounced in open court, **CP(CAA)/48(CHE)/2025**  
is Allowed.

**Sd/-  
RAVICHANDRAN RAMASAMY  
Member (Technical)**

**Sd/-  
JYOTI KUMAR TRIPATHI  
Member (Judicial)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH - II, CHENNAI**

**CP(CAA)48(CHE)/2025**

**In**

**CA(CAA)/4 (CHE)/2025**

*(Under Sections 230 to 232 of the Companies Act, 2013)*

In the matter of *Scheme of Amalgamation among Helios Strategic Systems Limited  
(Transferor Company) and Indo- National Limited (Transferee Company)*

**HELIOS STRATEGIC SYSTEMS LIMITED**

(CIN: U74999TN2015PLC101208)

Having its Registered Office at

No. 609, Mount Road Lakshmi Bhawan,

IVth Floor, Chennai, Tamil Nadu, India – 600 006.

Represented by, Ms. Swetha Subrahmanian, Company Secretary

**... 1<sup>st</sup> Petitioner / Transferor Company**

**With**

**INDO- NATIONAL LIMITED**

(CIN: L31909TN1972PLC006196)

Having its Registered Office at

No. 609, Mount Road Lakshmi Bhawan,

IVth Floor, Chennai, Tamil Nadu, India – 600 006.

Represented by, Ms. Swetha Subrahmanian, Company Secretary

**... 2<sup>nd</sup> Petitioner / Transferee Company**

**Order Pronounced on 10.03.2026**

**CORAM**

**SHRI. JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)**

**SHRI. RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)**

Present: -

*For Petitioners : Lakshmi Subramanian*

*For Regional Director : Avinash Krishnan Ravi, Advocate*

*For Income Tax Dept. : Rajkumar Jhabakh, Advocate*

*For Official Liquidator : Pola Raghunath & B. Palani*



## ORDER

### *(Hearing Conducted though Hybrid Mode)*

1. This Company Petition has been filed by **HELIOS STRATEGIC SYSTEMS LIMITED** (*hereinafter referred as 1<sup>st</sup> Petitioner Company*) and **INDO-NATIONAL LIMITED** (*hereinafter referred as 2<sup>nd</sup> Petitioner Company*) under section 230-232 of the Companies Act, 2013, and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (for brevity 'the Rules') for approval of the Scheme of Amalgamation (*hereinafter referred to as the 'SCHEME'*) proposed between the Petitioners Company.

2. Affidavit have been filed in support of the petitions sworn in by **Ms. Swetha Subrahmanian, Company Secretary** for all the Petitioner Companies in the capacity of Director/ Authorised Representative. Corresponding Extracts of Board Resolutions dated 25.10.2024 are placed on record.

### 3. **1<sup>ST</sup> MOTION APPLICATION**

The Petitioner Companies had filed First Motion Application vide CA(CAA)/4(CHE)/2025 and sought directions for Dispensation/ Convening the meeting of its Members/ Shareholders and Creditors regarding approval of the proposed Scheme. Based on the submissions, this Tribunal vide Order dated 29.04.2025 ordered for dispensation of the meetings of Equity Shareholders/ Members, Secured & Unsecured Creditors of the 1<sup>st</sup> Petitioner Company and Secured & Unsecured Creditors of the 2<sup>nd</sup> Petitioner Company and directed to convene the meeting of Secured & Unsecured Creditors of the 2<sup>nd</sup> Petitioner Company.

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*CP(CAA)/ 48 (CHE)/ 2025 In CA(CAA)/ 4(CHE)/ 2025*

*In the matter of Scheme of Amalgamation among Helios Strategic Systems Limited and Indo- National Limited*



#### 4. SCHEME SUMMARY

The Scheme of Amalgamation of **HELIOS STRATEGIC SYSTEMS LIMITED** with **INDO- NATIONAL LIMITED** and their respective Shareholders. Both the Petitioner Companies come under the jurisdiction of this Tribunal.

#### 5. RATIONALE OF THE SCHEME

The rationale and benefits of the Scheme are briefed in Part III of the Scheme as follows,

##### *“III. RATIONALE OF THE SCHEME*

*This Scheme of amalgamation would result III the following benefits:*

- i. The transferor Company is a wholly owned subsidiary of the transferee Company and the amalgamation is therefore within the group Companies.*
- ii. The amalgamation would facilitate a consolidation of business of the group and aid in simplification of corporate structure.*
- iii. The proposed amalgamation would be in the best interest of all stakeholders at large and would bring economies of scale and reduce the overheads considerably.*
- iv. The above amalgamation will help to Improve internal control systems, procedures and can possess effective control and improves in operational efficiency.*
- v. The amalgamation will eliminate inter- company transactions if any and holdings.*

*Thus, as a whole the consolidation shall be beneficial to the interest of the Transferor Company and the Transferee Company, their shareholders, their creditors, employees, customers and all stakeholders at large.”*

It is stated that the Board of Directors of both the Petitioner Companies have proposed the Scheme of Amalgamation. This Scheme provides for various other matters consequential or otherwise integrally connected herewith.



6. In the second motion Petition filed by the Petitioner Companies, this Tribunal vide order dated 09.03.2022 directed the Petitioner Companies to issue notice to the Statutory / Regulatory Authorities concerned as well as directed to issue paper publication.

7. In compliance with the said directions issued by this Tribunal, the Petitioner Companies effected paper publications in “*Business Standard*” in English (All India Edition) and “*Makkal Kural*” in Tamil (Tamil Nadu Edition) on 06.04.2022. The notices were also served to

- (i) Regional Director, Southern Region, Chennai,
- (ii) Official Liquidator,
- (iii) Registrar of Companies Chennai,
- (iv) Income Tax Department and other regulators.

Pursuant to the service of notice of the petitions, the following statutory authorities have responded.

## 8. STATUTORY / REGULATORY AUTHORITIES

### 8.1. REGIONAL DIRECTOR

8.1.1. The Regional Director (RD), Southern Region to whom the notice was served on 14.08.2025, has filed its report on 27.10.2025 and has expressed its ‘Observations’ and ‘No Objection’ to the Scheme as follows,

*“4. That as per Clause I(iii) of Part A of the Scheme, the Appointed Date means April 01, 2024 or such other date as may be fixed or approved by the Hon’ble National Company Law Tribunal, Chennai Bench or any other appropriate authority.*

...

*7. That Clause 1 of Part C of the Scheme provides that upon the Scheme becoming effective, the Transferee company shall account for the amalgamation of the Transferor company in its books of accounts as the Transferor company shall , record all the assets and liabilities of the Transferor company vested in its pursuant to this Scheme, in accordance*



*with the treatment provided for 'pooling of Interest Method' as prescribed in the Indian Accounting Standard (IND AS) 103 'Accounting for Business Combinations under common control' and other applicable IND-AS prescribed under Section 133 of the Companies Act, 2013 read With Companies (Indian Accounting Standard) Rules, 2015 (as amended). In this case, since the Transferor Company is wholly owned subsidiary which is getting merged with the Transferee company nothing has changed and the transaction only means that all the assets, liabilities and reserves of wholly owned subsidiary which were appearing in the consolidated financial statements of Group immediately before the merger would now be a part of the financial statements of the Transferee company. Accordingly, the value of all the assets, liabilities and reserves pertaining to the Transferor companies as appearing in the consolidated financial statements of the company would be recognized in the standalone financial statements of the Transferee company.*

*8. That Clause 3 of the Part C of the Scheme provides that consequent to and as part of the amalgamation of the authorised share capital of the Transferor company shall be sub- divided into Rs.5/- per share resulting in equity shares and the Authorised share capital of the Transferor company shall stand merged into and combined with the Authorised capital of the Transferee company pursuant to the Scheme, without any further act or deed. Upon this Scheme becoming effective, the authorised share capital of the Transferee company shall be Rs. divided into equity shares of face value of Rs.5/- each.*

*9. That Clause 8 of Part C of the Scheme provides that on the scheme becoming effective, the Transferor company shall stand dissolved without being wound up.*

*10. That as per the Chartered Accountant Certificate and based on the consent affidavits filed by the Shareholders/ creditors & the petitioner companies, this Hon'ble Tribunal vide order dated 29.04.2025 in had dispensed with/ directed to convene meeting of equity shareholders, secured creditors and Unsecured creditors of the Transferor Company and transferee company as under:*



Petitioner company	Equity Shareholders meeting	Secured Creditors meeting	Unsecured Creditors meeting
Transferor company	Dispensed with	Does not arise	Does not arise
Transferee company	Directed to convene meeting on 21.06.2025	Does not arise	Dispensed with

...

13. That ROC Chennai further reported that the audited balance sheet year ended 31.03.2024 of Transferor company, the Independent auditor has opined that there are no undisputable dues pending with the Transferor company, however, as per Note 19 of the financial statements i.e. Note on Contingent liability not provided for states that there is disputed income tax demand appealed against for Therefore, the company may be directed to clarify the present status of the due with the Income Tax.

14. That the as per the Chartered Accountant Certificate there are Nil Secured Creditors in the Transferee company, however as per the MCA21 portal there are 21 active charges pending with Transferee company. The transferee company may be directed to submit an affidavit enclosing NOCI Consent from the Secured Creditors whose charges are created in the MCA portal. Register of Charges of the Transferee company as per MCA portal is enclosed as Annexure- A.

15. That the petitioner companies may be directed to undertake to comply with the provisions of Section 240 of the Companies Act, 2013 and provisions of Section 232(3)(i) of the Companies Act, 2013.

...

17. The Scheme of Amalgamation filed with the application has been examined and submissions made at para & 16 may please be considered by this Hon'ble Tribunal and humbly prays this Hon'ble Tribunal to kindly take note of the same and dispose of the matter on merits and pass such order/orders as deemed fit and proper."

## 8.2. INCOME TAX DEPARTMENT

8.2.1. The Income Tax Department to whom the notice was served on 14.08.2025, has filed its report on 04.10.2025 and has expressed its 'Observations' and 'No Objection' to the Scheme as follows:



“2. It is stated that the present memo is being filed on behalf of the Income Tax Department Chennai based on the following letters: -

i) Letter dated 26.09.2025 from Office of Assistant Commissioner of Income Tax, Corporate Circle – 1(1), Chennai pertaining to Indo-National Limited

ii) Letter dated 26.09.2025 from Office of Income Tax Officer, TDS Ward – 2(3), Chennai pertaining to Helios Strategic Systems Ltd.

(Letter:

5. The Helios Strategic Systems Limited (Transferor Company) (PAN No: AADCH6435N) has total demand pending of Rs. 4,29,89,530/- for the A.Y 2018-19 as detailed below:

S. No.	A.Y.	Section	Demand Amount (in Rs.)
1	2018-19	143(3)	50,99,970/-
2	2018-19	270A	3,78,89,560/-
Total			Rs. 4,29,89,530/-

It is requested that the above mentioned demand may be paid by the assessee.

6. This office conveys no objection to the scheme of amalgamation subject to the condition that the scheme of arrangement should not flout any provisions of Income Tax Act, 1961 and any rules under Income Tax Rule 1962 and subject to fulfilment of conditions specified in scheme of amalgamation. If any part of the scheme is found to be repugnant to the Income tax Act 1961 and Income Tax Rule 1962, the same is to be treated as void ab initio. The department also requests that the transferee company M/s. Indo-National Limited shall discharge all its responsibilities and liabilities emanating in respect of the proceedings pending/completed/likely to arise in respect of transferor company.

7. The continuation of the proceedings of assessment or recovery or any other statutory action will be subject to the provisions of the Income Tax Act and the assessee companies will not quote the approved scheme as a ground to oppose such continuation of proceedings. In the event of the failure of the assessee to notify the department of the approval of the scheme,



*the same will preclude the assessee companies from raising any technical grounds on the validity of the proceedings.*

*8. The refund of tax which has already been determined but not issued either to the transferor company/amalgamating company or to the amalgamated company will be issued in the name of respective companies only, as per the extant technical limitations of the system. The amalgamated company shall ensure that no technical glitches arise due to any name mismatch by changing the name of the account or closure of the bank accounts. The department is not liable to pay any interest due to the delay attributable to the assessee in informing such changes. The assessee will make all such claims in respect of grant of refund/interest on refund to the Income Tax Authorities only. The petitioners will not claim any right under this scheme in respect of calculation of any period of delay attributable to the assessee while granting interest u/s 244A of the Act.*

*9. Any credit in respect of which tax at source was deducted/collected on inter- company transactions will be dealt with under the extant provisions of the Income Tax Act depending on the date of remittance of such TDS/TCS remitted into the government account.)*

*3. It is prayed that the above-mentioned letters along with this memo be treated as the representations/objections of the Income Tax Department for the purpose of Section 230(5) of the Companies Act, 2013. The same is attached herewith.*

*...*

*It is prayed that this Hon'ble Tribunal maybe please to take the memo and the letter on record and consider the same as the representation of the Income Tax Department as per Section 230 of Companies Act, 2013 and pass such other order(s) as this Hon'ble Tribunal may think fit in the facts and circumstances of the case."*

8.2.2. It is stated that in the present scheme of Amalgamation even though the 1<sup>st</sup> Petitioner Company gets dissolved, the liabilities of the same will be delved upon this 2<sup>nd</sup> Petitioner Company and therefore the Income Tax Department can proceed with their proceedings if any and approval of this Scheme does not cause any prejudice.



#### 8.4. OFFICIAL LIQUIDATOR

8.4.1. The Official Liquidator to whom the notice was served on 14.08.2025, has filed its report on 28.10.2025 and has expressed its 'Observations' and 'No Objection' to the Scheme as follows,

*"1. It is submitted that jointly company application in filed by the petitioner companies viz. Helios Strategic System Limited (Petitioner Company 1 / Transferor Company) and Indo- National Limited (Petitioner Company 2 / Transferee Company) in the matter of Scheme of Amalgamation under Sections 230-232 of the Companies Act, 2013, the Hon'ble NCLT Division Bench (Court-II) vide its order dated 29/4/2025 in CA(CAA)/4(CHE)/2025 directed the petitioner companies to serve notice to the Official Liquidator. The Petitioner Company issued notice dated 16/5/2025 received on 19/5/2025 to the Official Liquidator, High Court, Madras. On receipt of the said notice, the Official Liquidator on 27/5/2025 appointed Mis. S. Ramachandra Rao & Associates, Chartered Accountant firm from list of Chartered Accountants empanelled by the office of the Official Liquidator based on the order dated 3 2015 in C.A.No.821/2015 in various companies passed by the Hon'ble High Court, Madras being maintained by this office to look into the Scheme of Amalgamation and scrutinize the affairs of the Transferor Company for the minimum last 3 years before and upto Appointed Date i.e. 1/4/2024 (2021-22, 2022-23 & 2023-24) and submit their report on the affairs of the Transferor Company in terms of Sections 230-232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013. The Official Liquidator has received standard information partially and copy of company application on 7/7/2025 from the authorised representative of Transferor Company. The Official Liquidator has further received notices of petition dated 12/8/2025 and the company petition along with its annexures on 14/8/2025. Since the Official Liquidator has not received the report from the said Chartered Accountant firm, Official Liquidator has issued an email dated 26/6/2025 requesting the Chartered Accountant firm to finalise the report based on records so far submitted etc. Copy of the email dated 26/6/2025 is enclosed as Annexure-4. The Official Liquidator has*



*received financials of last 3 years (without Board Report) on 24/10/2025 and without Annexure-A to Audit Report for 2023-2024.*

*2. It is submitted that the said Chartered Accountant firm has partially verified the books and accounts and other records of the Transferor Company for the period of 3 years from 01-04-2021 to 31-03-2024 and submitted their report dated 18/10/2025 received by the Official Liquidator on 21/10/2025. Copy of the report of the Chartered Accountant is enclosed herewith and marked as Annexure-5 for kind perusal of this Hon'ble Tribunal.*

*...*

*3. That in accordance with the basis of notice served on 19/5/2025 and notices of petition on 14/8/2025 to the Official Liquidator by the Transferor Company and Transferee Company and also considering the conclusion made by the Chartered Accountants in their report dated 18/ 10/2025 as detailed above in para 2 of the report, which was made without complete information from companies, the specific representation of Official Liquidator in respect of Transferor Company and connected issues in the scheme is humbly submitted as follows:*

*(i) Employee protection undertaking:*

*That, the clause I.xxiv(iv) of Part A and clause 6 of Part B of the scheme seeks to protect the employees of the Transferor Company only if they are in service on effective date and hence, this Hon'ble Tribunal may be pleased to direct the companies to submit an undertaking to this Hon'ble Tribunal to the effect that there would be no retrenchment of any employee who were in service as on Appointed Date (1.4.2024) as well except in the event of their resignation on their own before the Effective Date.*

*(ii) Undertaking not to adopt auto modification of content of scheme, post its sanction, without prior consent of Tribunal:*

*That, the clause 2(a) of Part C (Consequential matters relating to tax and compliance with law) of the Scheme providing for auto modification of content of the scheme, post its sanction by this Hon'ble Tribunal, it is submitted that such auto modification of the content of the scheme to be in compliance with Income Tax Law etc., without the previous specific*



*approval/ sanction of this Hon'ble Tribunal will be in violation of section 231(1)(b) of the Companies Act, 2013 as every modification / auto modification of the content of the Scheme requires specific approval by this Hon'ble Tribunal and scheme cannot contain auto modification of content on its own. Hence, this Hon'ble Tribunal may be pleased to direct the companies to delete / modify the clause 2(a) of Part C (Consequential matters relating to tax and compliance with law) of the scheme by way of amendment to the scheme proposed, so as to ensure that no such auto amendment / modification of the Scheme provided for in the scheme or takes place, post its sanction by this Hon'ble Tribunal or to submit an undertaking to this Hon'ble Tribunal to the effect that such auto modification of the content of the scheme will not be operative automatically or be implemented without specific prior approval of this Hon'ble Tribunal received by the companies under section 231 (I)(b) of the Companies Act, 2013.*

*(iii) Undertaking to carry out the amendment of main objects of Transferee Company before effective/ dissolution date, to incorporate Finance/NBFC/CIC main objects of Transferor Company:*

*That in order to continue the Finance/NBFC/CIC business of Transferor Company by the Transferee Company, upon sanction of the scheme, the Transferee Company needs to amend its main objects in addition to its existing main objects Of Transferee Company so that the Transferee Company can continue the business of Transferor Company. However, the scheme do not provide for any such amendment. Hence, this Hon'ble Tribunal may be pleased to direct the companies to amend the scheme or to submit an undertaking to this Hon'ble Tribunal that they will carry out the amendment of main objects of Transferee Company before the effective date.*

*(iv) Observations in CA report:*

*That, the Chartered Accountant appointed to scrutinize the books of accounts of Transferor Company reported, inter-alia, vide sub-para(s) (d) to (f) of Para VIII of CA report (as reproduced at page no.8 to 10 of this report) and vide last sub para of conclusion of CA report (as reproduced at page 8 to 10 of this report) regarding (i) Interest*



expenditure of Rs 6.45 Cr. accounted, (ii) conversion of loan of Rs 4.19 Cr. into equity, (iii) conversion of debentures + interest etc. of Rs 60.32 Cr. into equity including non-submission of Terms of CCD etc., and (iv) Non-submission of relevant information to Chartered Accountant appointed by Official Liquidator; which have impact on non-compliance of Company law & Income Tax Law which require reply and clarification by the companies along with documentary evidence and require submission of full information to Chartered Accountant Appointed by Official Liquidator in order to submit further report by Chartered Accountant.

(v) Pending charge shown in MCA Master data:

That, as per MCA master data taken print recently on 27/10/2025 in respect of Transferee Company there are pending open charges created in favour of HDFC Bank on 30/7/2020, The Hongkong and Shanghai Banking Corporation Limited on 29/7 / 2020, Industrial Development Bank of India on 3/6/ 1994, State Bank of Travancore on 26/3/ 1993, The Industrial Credit & Investment co. Of India on 21/10/ 1992, Indian Bank on 6/2/1998, The British Bank of the Middle East on 31/05/ 1982, Indian Bank on 30/4/1981, Indian Bank on 26/5/ 1980, The Industrial Credit and Investment Co. of India Ltd. on 14/3/ 1980, Indian Bank on 15/02/ 1980, Indian bank on 29/4/1994, Indian bank on 21/12/1973, Indian Bank on 30/10/1973, Andhra Pradesh State financial Corporation Limited on 21/7 / 1993, Indian Bank on 30/6/1973, Indian Bank on 26/6/1973, Indian Bank on 22/6/1973, Indian bank on 20/6/1973, Indian bank on 20/6/1973 and Indian Bank on 28/5/ 1973 which are not shown as satisfied/repaid as per Master Data. However, the financials of Transferee Company for 2023-24 do not show any such secured creditors. This may be clarified by the Companies to this Hon'ble Tribunal. The copy of the master data of Transferee Company is enclosed as Annexure-3.

(vi) Mismatch about Rs 8 Cr. debentures, in audited financials of both companies:

That the Assets side of the Balance Sheet of Transferee Company for 2023-24 disclose that the Transferee Company has invested into



*Compulsorily Convertible debentures of Transferor Company for an amount of Rs 8 Cr. Copy of extract of Assets forming part of financial statements of Transferee Company is enclosed Annexure-I. However, the liabilities/ equity side of the Balance Sheet of Transferor Company for the same year 2023-24 do not show/ disclose such debentures of Rs 8 Cr. Copy of the extract of Liabilities / Equity forming part of financial statements of Transferor Company for the year 2023-24 is enclosed as Annexure-2. The said mismatch needs to be clarified to this Hon'ble Tribunal by the Companies.*

*(vii) Notice to Reserve Bank of India:*

*That the statutory auditor's report dated 27 /5/2024 in respect of Transferor Company for the year 2023-24 contained reference to Annexure-A to such auditor's report. However, such Annexure-A forming part of the statutory auditor's report is not found attached at / after e no. 1230 of Company Petition, which will have information / report of Statutory Auditor about whether the company is required to register with Reserve Bank of India being a Finance/NBFC/CIC Company as evident from its main objects and also form its audited financials. However, it is noticed that notice of the scheme is not issued to the Sectoral Regulator viz. Reserve Bank of India. Hence, this Hon'ble Tribunal may be pleased to direct the companies to issue of notice of scheme to Reserve Bank of India and furnish full set of audited financials (including Board Report & Annexure-A) to Official Liquidator.*

*4. Therefore, it is submitted that the Official Liquidator is of the humble opinion that the affairs of the Transferor Company appear to have not been conducted in a manner prejudicial to the interest of its members or to public interest subject to representation at 3 above, and subject to verification of various details of information/clarifications etc. pending to be received as detailed in para 3 above."*

#### **8.5. REPLY TO THE STATUTORY OBJECTIONS**

The Petitioner companies have filed their response to the statutory objections and the same is extracted below:

*Reply to the Regional Director:*



**With regard to Paragraphs 1 to 12 of the Regional Director Report:**

The Petitioner Companies respectfully submits that the observation made by the Regional Director, Southern Region Chennai for the Paragraphs 1 to 12 have been agreed and duly admitted.

**Observation at Para 13 of the Regional Director Report:**

*"13. That ROC Chennai further reported that the audited balance sheet year ended 31.03.2024 of Transferor company, the Independent auditor has opined that there are no undisputable dues pending with the Transferor company, however, as per Note 19 of the financial statements i.e. Note on Contingent liability not provided for states that there is disputed income tax demand appealed against for Rs.4,65,69,580/-. Therefore, the company may be directed to clarify the present status of the due with the Income Tax."*

**Response**

The Petitioner Companies respectfully submits and clarifies that the Transferor Company has a disputed Income Tax demand appealed against for an amount of ₹4,65,69,580/- for Assessment Year 2018-19, arising on account of disallowance of interest claimed on Compulsorily Convertible Debentures (CCDs).

Helios Strategic Systems Limited ("Assessee Company") is a wholly owned subsidiary of Indo National Limited (INL). The company functions as a core investment company and had made investment in Kineco Limited by acquiring 51% equity. INL had infused funds into the Assessee through 8%

Compulsorily Convertible Debentures (CCDs), on which the Assessee paid interest.

The Transferor Company filed its return of income under section 139(1) of the Income Tax Act, 1961, declaring a loss of ₹5,91,66,816/- after claiming interest payable of ₹2,98,08,726/- for AY 2017-18 and ₹3,46,89,092/- for AY 2018-19. The Transferor company case was selected for scrutiny and the assessment was completed under section 143(3) on 19.04.2021, the Assessing Officer disallowed interest expenditure relating to CCDs for AY 2017-18 and AY 2018-19, aggregating to ₹6,44,97,218, alleging that such interest pertained to investments yielding exempt income and penalty proceedings has been initiated under Section 270A(1) with 270(9)(a) of the Income Tax Act, 1961.

The Transferor Company preferred an appeal before the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi. The Ld. CIT(A), by order dated 25.03.2025, dismissed the appeal ex-parte, due to non-participation and without considering the merits or the written submissions.

The Transferor Company thereafter filed a further appeal before the Hon'ble Income Tax Appellate Tribunal (ITAT), Chennai, vide ITA No. 2082/Chny/2025. The Hon'ble ITAT, by an order dated 24.09.2025, after perusing the records, noted that the CIT(A) had passed the order ex parte without considering the submissions filed by the assessee. Accordingly, the Hon'ble ITAT set aside the order of the CIT(A) and remitted the matter back for de novo adjudication, directing the Company to participate and furnish all relevant materials.

Accordingly, the Petitioner Companies undertakes and declares before this Hon'ble Tribunal that:

- i. The Transferee Company shall actively participate in the de novo adjudication proceedings before the Income Tax authorities.
- ii. The Transferee Company shall be added as a party to all such proceedings, and all obligations, liabilities, or expenses arising therefrom shall be borne by the Transferee Company in accordance with the Scheme of Amalgamation as specified in Part B, Clause 3 of the Scheme of Amalgamation as mentioned below:

**"3. LEGAL PROCEEDINGS**

*a) If any suit, appeal or other proceeding of whatever nature by or against the Transferor Company is pending, the same shall not abate or be discontinued or in any way be prejudicially affected*



by reason of or by anything contained in this Scheme, but the said suit, appeal or other legal proceedings may be continued, prosecuted and enforced by or against the Transferee Company, as the case may be, in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the Transferor Company as if this Scheme had not been made.

b) In case of any litigation, suits, recovery proceedings which are to be initiated or may be initiated against the Transferor Company, the Transferee Company shall be made party thereto and any payment and expenses made thereto shall be the liability of the Transferee Company.

c) After the Appointed Date and before the Effective Date, if any, proceedings are taken by or against the Transferor Company, the same shall be instituted and/or defended by the Transferor Company for and on behalf of the Transferee Company."

The Petitioner Companies submit that the above declaration clarifies the status of the disputed Income Tax demand and the steps being taken to ensure compliance with the Scheme and applicable laws.

**Observation at Para 14 of the Regional Director Report:**

"14. That the as per the Chartered Accountant Certificate there are Nil Secured Creditors in the Transferee company, however as per the MCA21 portal there are 21 active charges pending with Transferee company. The transferee company may be directed to submit an affidavit enclosing NOC/ Consent from the Secured Creditors whose charges are created in the MCA portal. Register of Charges of the Transferee company as per MCA portal is enclosed as Annexure- A."

**Response**

The Petitioner Companies respectfully submit that as on the cut-off date, i.e., September 30, 2024, the Transferee Company does not have any secured creditors, in terms of any outstanding dues, borrowings, or other financial liabilities.

It is, however, submitted that certain secured charges are reflected on the Ministry of Corporate Affairs (MCA) portal under the "Index of Charges", which pertain to sanctioned working capital facilities extended by

respective lenders. These facilities were sanctioned but not availed or utilized by the Transferee Company as on the said date. Consequently, no sums are outstanding or payable to any of the said lenders.

Additionally, the unaudited financial results of the Company for the half-year ended September 30, 2024 have been duly disseminated to the stock exchanges and are enclosed herewith for reference.

S. No	Name of the financial institution	Amount in Rs	Nature of facility	Charge ID
1	HDFC BANK LIMITED	25,00,00,000	Working Capital Demand Loan, Cash Credit, Letter of Credit, Bill Discounting	100361348
2	THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED	51,00,00,000	Working Capital Demand Loan, Cash Credit, Letter of Credit, Bill Discounting	100367259



Kindly note that loans listed under S. No. 1 and 2 in the above tabulation are currently outstanding.

The Petitioner Companies further submit that certain legacy charges continue to appear as "open" on the MCA portal, although the corresponding loans were fully repaid and satisfied prior to the year 2000. These charges pertain to loans earlier availed from institutions such as Industrial Development Bank of India, State Bank of Travancore, Indian Bank, The Industrial Credit & Investment Corporation of India (ICICI), and others, as listed in the Annexure A of the Regional Director, Southern Region report.

The Petitioner Companies clarify that, since these loans were closed prior to the introduction of the present electronic filing system of the MCA, and owing to the non-availability of original charge satisfaction documents filed

decades ago, the digital satisfaction of such charges could not be recorded in the MCA database.

The Transferee Company undertakes to initiate appropriate corrective action, including liaising with the concerned financial institutions and the Registrar of Companies, Chennai, for the purpose of filing charge satisfaction forms and updating the MCA records, in accordance with the provisions of the Companies Act, 2013, and the rules made thereunder.

**With regard to Para 15 of the Regional Director Report:**

*"15. That the petitioner companies may be directed to undertake to comply with the provisions of Section 240 of the Companies Act, 2013 and provisions of Section 232(3)(i) of the Companies Act, 2013."*

**Undertaking:**

1. The transferee company hereby undertakes to pay any differential fees, if any, arising out of the increase in the authorized share capital of the company post-amalgamation, after applying the set-off as provided under Section 232(3)(i) of the Companies Act, 2013 as specified in the Part C, clause 3(e) of the Scheme of Amalgamation.
2. The Petitioner Companies undertakes that any personal liability of the officers of the Transferor Company in respect of offences committed prior to the amalgamation shall continue to subsist, whereas the Transferee Company shall assume and discharge all liabilities, duties, and obligations of the Transferor Company arising from or in connection with the Scheme of Amalgamation.

**With regard to Para 16 of the Regional Director Report:**

*"16. That the Transferee Company may be directed to file amended MoA containing amendment to the Capital Clause for record purposes with the Registrar of Companies, with respect to increase its authorised capital."*

**Undertaking:**

The transferee company further undertakes to file the necessary amendments to the Memorandum of Association (MOA) and Articles of Association (AOA) with the concerned authorities as required under applicable laws to give effect to the increase in authorized share capital, as provided in the Part C, clause 3(c & e) of the Scheme of Amalgamation.

**Prayer**

In light of the facts and submissions made herein, it is most humbly prayed that this Hon'ble Tribunal may be pleased to:

1. Take on record the para-wise replies submitted by the Petitioner Companies to the observations and undertakings by the Regional Director, Southern Region, Ministry of Corporate Affairs, Chennai report dated 27.10.2025
2. Approve and sanction the Scheme of Amalgamation between M/s Helios Strategic Systems Limited and M/s Indo-National Limited as filed, along with all the terms, conditions, and undertakings contained therein;
3. Grant such other and further reliefs as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.



*Reply to the Income Tax Authorities:*

**Observation at Para 6 of the Income Tax Department Letter:**

*6.It is noticed that the transferor company M/s Helios Strategic Systems Ltd has shown following carry forward losses as per the latest return filed for the 2024-25. The losses are shown for an amount of Rs. 18,82,94,324/- are subject to provisions of section 72A and as of now it is noticed that the transferor company is not any industrial undertaking, and no carry forward benefit of losses is eligible in this amalgamation scheme. Further, it is not clear how the losses of Rs. 69,80,05,196/- have been reflected in column no 5 of the CFLA schedule. In view of this inconsistency, the petitioner company may state the variation and the non-eligibility of losses to be carried forwarded.*

**Response**

The Petitioner Company respectfully submits that there has been an inadvertent error in the brought forward loss figures as reflected in the Income Tax Return for the relevant assessment year. Due to an auto-population issue in the ITR utility, the amount under the head "Specified Business Loss" has been incorrectly captured even though the Transferor Company does not carry on any specified business as defined under Section 35AD of the Income-tax Act, 1961. This has also resulted in inflation of the normal business loss figure.

As per the books of account and supporting computation, the correct brought forward loss position is ₹18,56,04,444. The Transferor Company acknowledges the inconsistency in reporting and confirms that the error is inadvertent and technical in nature.

Without prejudice to the above correction, the Petitioner submits that the Transferor Company is not an "industrial undertaking" within the meaning of Section 72A and therefore does not qualify for carry-forward or set-off of accumulated business losses in the present Scheme of Amalgamation. Accordingly, no tax benefit on account of brought-forward business losses is being claimed or intended to be claimed by the Transferee Company under the Scheme.

Given that the non-eligibility of loss carry-forward is accepted and no tax advantage arises from such figures, the Petitioner submits that the inadvertent reporting error does not have any bearing on the present proceedings before the Hon'ble Tribunal. Reliance may kindly be placed on the enclosed computation statement only for the limited purpose of

reflecting the correct factual position, without seeking any consequential tax benefit.

**Observation at Para 7 of the Income Tax Department Letter:**

*7.It is further concluded that the scheme of amalgamation should not flout any provisions of the Income Tax Act, 1961 and any rules under Income Tax Rule 1962 and subject to fulfilment of conditions specified in scheme of amalgamation/ demerger. If any part of the scheme is found to be repugnant to the Income tax Act 1961 and Income Tax Rule 1962, the same is to be treated as void ab initio. The department also requests that the transferee company M/s Indo-National Ltd shall discharge all its responsibilities and liabilities emanating in respect of the proceedings pending/ completed/ likely to arise in respect of the transferor company. It is further noticed that the transferor company M/s Helios Strategic Systems Ltd, sold its stake of 51% in its subsidiary M/s Kineco Ltd, after the appointed date. The department reserves the right to examine this transaction on whether this scheme of amalgamation is resulting in any undue advantage to the transferor/transferee company.*



### **Response**

#### **(A) On compliance with Income-tax Act and continuation of liabilities**

The Petitioner respectfully submits that the Scheme of Amalgamation has been formulated in compliance with the provisions of the Income-tax Act, 1961, the Income-tax Rules, 1962, and the Companies Act, 2013. There is no clause in the Scheme that is repugnant to or inconsistent with the said enactments. Upon the Scheme becoming effective, all assets, liabilities, obligations, and proceedings of M/s Helios Strategic Systems Limited shall, by operation of law, stand transferred to and be enforceable against M/s Indo-National Limited. The Petitioner further confirms that the Transferee Company shall duly discharge all statutory liabilities arising in respect of the Transferor Company, including those relating to proceedings pending, completed, or likely to arise in the future.

#### **(B) On sale of 51% stake in Kineco Limited**

With reference to the observation that the Transferor Company sold its 51% stake in its subsidiary M/s Kineco Limited "after the appointed date," the Petitioner respectfully submits that the said transaction was completed in Financial Year 2023-24, which is prior to the appointed date of the Scheme, i.e., 01<sup>st</sup> April, 2024. A copy of the Audited Financial Statement of Transferor Company for the Financial year 2024-25 is enclosed herewith

as **Annexure A**. The reference in the Department's memo appears to be based on an incorrect understanding of the timeline. The transaction was carried out in the ordinary course of business and does not result in any undue tax advantage to either the Transferor or the Transferee Company under the Scheme. Without prejudice, the Petitioner Company reiterates its continued cooperation with the Income-tax Department should they wish to examine the transaction separately in accordance with law.

### *Reply to the Official Liquidator:*

#### **With regard to Paragraphs 3(i):**

##### **"(i) Employee protection undertaking:**

*That, the clause Lxxiv(iv) of Part A and clause 6 of Part B of the scheme seeks to protect the employees of the Transferor Company only if they are in service on effective date and hence, this Hon'ble Tribunal may be pleased to direct the companies to submit an undertaking to this Hon'ble Tribunal to the effect that there would be no retrenchment of any employee who were in service as on Appointed Date (1.4.2024) as well except in the event of their resignation on their own before the Effective Date".*

##### **Undertaking:**

- i. The Petitioner Companies hereby undertakes to this Hon'ble Tribunal that no employee who was in service of the Transferor Company as on the Appointed Date, i.e., 1 April 2024, shall be retrenched, terminated, or removed from service as a consequence of the Scheme of Amalgamation, except in cases where an employee voluntarily resigns on their own or is terminated as per the employment agreement prior to the Effective Date.
- ii. That all such employees shall continue in service on terms and conditions not less favourable than those existing prior to the Scheme, in accordance with applicable laws.
- iii. That this undertaking is being furnished pursuant to the directions sought before this Hon'ble Tribunal and shall be binding on both the Transferor and Transferee Companies upon sanction of the Scheme.



**With regard to para (3)(ii) of the Official Liquidator Report:**

***“(ii) Undertaking not to adopt auto modification of content of scheme, post its sanction, without prior consent of Tribunal:***

*That, the clause 2(a) of Part C (Consequential matters relating to tax and compliance with law) of the Scheme providing for auto modification of content of the scheme, post its sanction by this Hon'ble Tribunal, it is submitted that such auto modification of the content of the scheme to be in compliance with Income Tax Law etc., without the previous specific approval / sanction of this Hon'ble Tribunal will be in violation of section 231(1)(b) of the Companies Act, 2013 as every modification / auto modification of the content of the Scheme requires specific approval by this Hon'ble Tribunal and scheme cannot contain auto modification of content on its own. Hence, this Hon'ble Tribunal may be pleased to direct the companies to delete / modify the clause 2(a) of Part C (Consequential matters relating to tax and compliance with law) of the scheme by way of amendment to the scheme proposed, so as to ensure that no such auto amendment / modification of the Scheme provided for in the scheme or takes place, post its sanction by this Hon'ble Tribunal or to submit an undertaking to this Hon'ble Tribunal to the effect that such auto modification of the content of the scheme will not be operative automatically or be implemented without specific prior approval of this Hon'ble Tribunal received by the companies under section 231(1)(b) of the Companies Act, 2013.”*

**Undertaking:**

- i. That the Petitioner Companies have taken note of the observation made by the Official Liquidator regarding Clause 2(a) of Part C – “Consequential Matters Relating to Tax and Compliance with Law” of the Scheme.
- ii. That the Petitioner Companies hereby undertakes and assure this Hon'ble Tribunal that no automatic modification, amendment, or alteration of any provision of the Scheme shall be effected after the Scheme is sanctioned by this Hon'ble Tribunal, including any modifications that may be required to comply with the provisions of the Income Tax Act, 1961, or any other applicable law.
- iii. That any modification, amendment, or alteration, whether consequential or otherwise, shall be implemented only after obtaining prior sanction of this Hon'ble Tribunal in terms of Section 231(1)(b) of the Companies Act, 2013.
- iv. That Clause 2(a) of Part C shall not be construed or acted upon in a manner that would permit automatic or modifications of the Scheme without prior approval of this Hon'ble Tribunal.
- v. That this Undertaking is executed voluntarily and in compliance with the directions and observations of the Official Liquidator to ensure strict adherence to the provisions of the Companies Act, 2013, and the rules thereunder.

**With regard to para (3)(iii) of the Official Liquidator Report:**

***“(iii) Undertaking to carry out the amendment of main objects of Transferee Company before effective/dissolution date, to incorporate Finance/NBFC/CIC main objects of Transferor Company:***

*That in order to continue the Finance/NBFC/CIC business of Transferor Company by the Transferee Company, upon sanction of the scheme, the Transferee Company needs to amend its main objects in addition to its existing main objects of Transferee Company so that the Transferee Company can continue the business of Transferor Company. However, the scheme do not provide for any such amendment. Hence, this Hon'ble Tribunal may be pleased to direct the companies to amend the scheme or to submit an undertaking to this Hon'ble Tribunal that they will carry out the amendment of main objects of Transferee Company before the effective date.”*



**Undertaking:**

In compliance with the observation raised by the Official Liquidator regarding the objects of the Transferor Company and the applicability of CIC / NBFC-related activities, the Transferee Company respectfully submits as follows:

- i. That the Scheme of Amalgamation as proposed before this Hon'ble Tribunal does not contemplate or provide for the continuation or conduct by the Transferee Company of the Finance / NBFC / CIC-related business or activities of the Transferor Company.
- ii. That pursuant to the Scheme, the Transferee Company shall not undertake or engage in any regulated CIC / NBFC / finance operations presently forming part of the objects of the Transferor Company.
- iii. That accordingly, no amendment to the Main Objects Clause of the Memorandum of Association of the Transferee Company is required or proposed, as the Transferee Company shall continue to operate

solely within the scope of its existing objects as presently authorized under its Memorandum of Association.

- iv. That nothing contained in the Scheme of Amalgamation shall be construed as transferring or vesting the Finance / NBFC / CIC business of the Transferor Company upon the Transferee Company.
- v. That in the event the Transferee Company at any future point proposes to undertake any regulated finance / NBFC / CIC activities, it shall do so only upon obtaining requisite statutory approvals and amend its Memorandum of Association in accordance with the applicable provisions of the Companies Act, 2013.

That this Undertaking is respectfully submitted for the satisfaction of the Official Liquidator and this Hon'ble Tribunal to clarify that the observation relating to the amendment of the objects clause of the Transferee Company is not applicable in the present factual context.

**With regard to para 3 (iv) of the Official Liquidator Report:**

**“(iv) Observations in CA report:**

*That, the Chartered Accountant appointed to scrutinize the books of accounts of Transferor Company reported, inter-alia, vide sub-para(s) (d) to (f) of Para VIII of CA report (as reproduced at page no.8 to 10 of this report) and vide last sub para of conclusion of CA report (as reproduced at page 10 of this report) regarding (i) Interest expenditure of Rs 6.45 Cr. accounted, (ii) conversion of loan of Rs 4.19 Cr. into equity, (iii) conversion of debentures + interest etc. of Rs 60.32 Cr. into equity including non-submission of Terms of CCD etc., and (iv) Non-submission of relevant information to Chartered Accountant appointed by Official Liquidator; which have impact on non-compliance of Company law & Income Tax Law which require reply and clarification by the companies along with documentary evidence and require submission of full information to Chartered Accountant Appointed by Official Liquidator in order to submit further report by Chartered Accountant”.*

**Response:**

The Petitioner Companies respectfully submits a detailed clarification/ submission to para VIII (d) to (f) of the report covering observations from the Chartered Accountant Report as under, which the Petitioner Companies prays should be considered by the Official Liquidator himself without refereeing it again to the Chartered Accountant:

At the outset the Petitioner Companies wishes to state that all information which has been sought by the Chartered Accountant has been provided in full and nothing has been withheld. Notwithstanding this, all document relevant to the observation mentioned in the CA report on Paragraph VIII (d) to (f) as applicable has been provided herein.



**Observation to para VIII (d) of the Official Liquidator Report:**

"Rs.4,65,69,580/- has been noted as disputed Income Tax Demand in the audited Balance Sheet from F.Y: 2021-22 to 2023-24 for which we have verified the assessment Order Dated: 19.04.2021 disputing the interest Expenditure accounted and claimed payable to Transferee Company Totalling Rs. 6,44,97,218/- has been disallowed and Penalty Proceedings initiated under Section 270A(1) with 270A(9)(a). For, Which the assessee gone for appeal and the same has been Dismissed by the CIT Appeals, Order Dated: 25.03.2025 Under Section 250 of Income Tax Act 1961 on the Grounds of No Response and Various other reasons as per ITBA/NFAC/s/250/2024-25/1075016921(1) Dated: 25.03.2025 is self-Explanatory Where the assessee argument disagreed by the AO and CIT Appeals also. Now, that the assessee has filed the same in ITAT Chennai, Vide Acknowledgement No: 1800020672 Dated: 29.07.2025 is under Proceedings."

**Response:**

The Petitioner Company 1 respectfully submits and clarifies that it has a disputed Income Tax demand amounting to ₹4,65,69,580/- for Assessment Year 2018-19, which has been appealed, arising out of the disallowance of interest on Compulsorily Convertible Debentures ("CCDs").

Helios Strategic Systems Limited ("the Assessee Company") is a wholly-owned subsidiary of Indo National Limited ("INL") and functions as a Core Investment Company. The Assessee had made an investment in Kineco Limited by acquiring 51% equity. The Transferee Company had infused funds into the Assessee through 8% CCDs, on which the Assessee Company paid interest.

The Transferor Company filed its return of income under Section 139(1) of the Income-tax Act, 1961, declaring a loss of ₹5,91,66,816/-, after accounting for interest payable of ₹2,98,08,726/- for AY 2017-18 and ₹3,46,89,092/- for AY 2018-19. The case was selected for scrutiny and the assessment was completed under Section 143(3) on 19.04.2021. The Assessing Officer disallowed the interest expenditure relating to CCDs for

AY 2017-18 and AY 2018-19 aggregating to ₹6,44,97,218/-, alleging that the interest pertained to investments yielding exempt income. Penalty proceedings were also initiated under Section 270A(1) read with Section 270A(9)(a) of the Income-tax Act, 1961.

The Transferor Company preferred an appeal before the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi. The Ld. CIT(A), by order dated 25.03.2025, dismissed the appeal ex parte due to non-participation, without considering the merits or the written submissions.

A further appeal was filed before the Hon'ble Income Tax Appellate Tribunal (ITAT), Chennai, in ITA No. 2082/Chny/2025. The Hon'ble ITAT, by order dated 24.09.2025, after examining the records, observed that the CIT(A) had passed the order ex parte without considering the assessee's submissions. Accordingly, the Hon'ble ITAT set aside the order of the CIT(A) and returned the matter back for de novo adjudication, directing the Company to participate and furnish all relevant materials.

Accordingly, the Petitioner Company 1 undertakes and declares before this Hon'ble Tribunal that:

- i. The Transferee Company shall actively participate in the de novo adjudication proceedings before the Income Tax authorities.
- ii. The Transferee Company shall be added as a party to all such proceedings, and all obligations, liabilities, or expenses arising therefrom shall be borne by the Transferee Company in accordance with the Scheme of Amalgamation as specified in Part B, Clause 3 of the Scheme of Amalgamation as mentioned below:



### **"3. LEGAL PROCEEDINGS**

a) *If any suit, appeal or other proceeding of whatever nature by or against the Transferor Company is pending, the same shall not abate or be discontinued or in any way be prejudicially affected by reason of or by anything contained in this Scheme, but the said suit, appeal or other legal proceedings may be continued, prosecuted and enforced by or against the Transferee Company, as the case may be, in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the Transferor Company as if this Scheme had not been made.*

b) *In case of any litigation, suits, recovery proceedings which are to be initiated or may be initiated against the Transferor Company, the Transferee Company shall be made party thereto and any*

*payment and expenses made thereto shall be the liability of the Transferee Company.*

c) *After the Appointed Date and before the Effective Date, if any, proceedings are taken by or against the Transferor Company, the same shall be instituted and/or defended by the Transferor Company for and on behalf of the Transferee Company."*

The Petitioner Companies submits that the above declaration clarifies the pending status of the disputed Income Tax demand and the steps being taken to ensure compliance with the Scheme and applicable laws.

#### **Observation to para VIII (e) of the Official Liquidator Report:**

*"The Company has converted the outstanding loan amount of Rs.4,18,67,215/- due to the Transferee Company into equity shares pursuant to the resolutions passed by the Board and the members in the Extraordinary General Meeting held on 28.12.2022. The said conversion has not been carried out at a value determined in accordance with Rule 11UA of the Income Tax Rules, 1962, based on the fair market value certified by a qualified valuer.*

*In this regard, it is noted that under Section 2(22)(e) of the Income Tax Act, 1961, any loan or advance made by a closely held company to a shareholder holding not less than 10% of voting power, or to a concern in which such shareholder has substantial interest, may be treated as deemed dividend to the extent of accumulated profits.*

*Accordingly, the transaction is considered to be non-compliance with the 62(1)(c) and applicable provisions of the Companies Act, 2013 and the Income Tax Act, 1961."*

#### **Response:**

The Transferee Company was allotted equity shares dated January 01, 2023 in lieu of the outstanding loan amounting to Rs. 4,18,67,215, which was due to the Transferee Company from the Transferor Company. The Conversion of loan into equity was carried out in accordance with Section 62(3) of the Companies Act, 2013, after obtaining requisite approval from the shareholders vide special resolution passed at the Extra-ordinary General meeting held on 28<sup>th</sup> December, 2022, which satisfies the requirements of that section.



The Chartered Accountant in his report erroneously referred to section 62(1)(c) of the Companies Act, 2013 which pertains to preferential issue of equity shares at a price arrived at based on the valuation report issued by a registered valuer.

Given that the conversion of loan into equity was carried out by the transferor company in accordance with the Section 62(3) there was no requirement to obtain the valuation report. For further clarity we quote section 62(3) below:

*“(3) **Nothing in this section shall apply to the increase of the subscribed capital of a company caused by the exercise of an option as a term attached to the debentures issued or loan raised by the company to convert such debentures or loans into shares in the company:***

*Provided that the terms of issue of such debentures or loan containing such an option have been approved before the issue of such debentures or the raising of loan **by a special resolution passed by the company in general meeting.**”*

In addition, we respectfully submit that the shares of the Company were issued in consideration of the conversion of loan at a face value of ₹10 per share and **not at a premium**. Accordingly, Section 56(2)(vii)(b) of the Income-tax Act, 1961 is not applicable to the present case since the shares were issued **at par**, and therefore **Rule 11UA is also not attracted**.

Furthermore, the shares so issued to the Transferee Company are proposed to be **cancelled upon sanction of the Scheme of Amalgamation**. As a result, **no gain or benefit accrues to the Transferee Company** from this transaction which could give rise to any taxable income under Section 56(2)(vii)(b).

With respect to the points made in the CA report on Section 2(22)(e) of the Income-tax Act, 1961, it is respectfully submitted that **Section 2(22)(e)** is attracted only where a **closely-held company makes a loan or advance to a shareholder** who is beneficially holding not less than 10% of voting power, and such transaction represents a payment by the company to its shareholder out of accumulated profits. The section contemplates distribution of profits by way of loans or advances in lieu of dividend. In the present case, however, the situation is **exactly the reverse** — the Transferor Company has **received funds from its**

shareholder and has **not advanced any loan** or provided any benefit to the shareholder.

Since **the flow of funds is from the shareholder to the company**, and not from the company to the shareholder, **the basic condition for applicability of Section 2(22)(e) is not satisfied**. Accordingly, the amount borrowed and later converted into share capital **cannot be treated as deemed dividend** under Section 2(22)(e) of the Act.

**Observation to para VIII (f) of the Official Liquidator Report:**

*“The Company has also converted the amount of Compulsory Convertible Debentures - Principal + Interest + TDS paid against Interest Payable totalling ₹60,32,12,732/- due to the Transferee Company into equity shares of ₹10/- each with a premium of ₹90/- per share, pursuant to the resolutions passed by the Board of Directors and the Members in the Extraordinary General Meeting held on 28.12.2022. However, the said conversion has not been carried out at a value determined in accordance with Rule 11UA of the Income Tax Rules, 1962, based on the fair market value certified by a qualified valuer. Further, in the absence of complete information regarding the terms of the CCD issued, and TDS entries, (we were unable to verify the correctness of the interest accruals and TDS accounting entries in the books of account as well as the copies of the Debenture Bonds)*



In this regard, it is noted that under Section 2(22)(e) of the Income Tax Act, 1961, any loan or advance made by a closely held company to a shareholder holding not less than 10% of voting power, or to a concern in which such shareholder has substantial interest, may be treated as deemed dividend to the extent of accumulated profits. Accordingly, the transaction is considered to be non-compliance with the applicable provisions of the Companies Act, 2013 and the Income Tax Act, 1961.

It is further observed that, the longtime battle between the Transferor company and income tax department, disagreement of allowability on interest payable on Compulsory Convertible Debentures and imposing penalty even at this point of time appeal has been dismissed. While issuing equity shares against CCDs even Section 281 of income tax Act certificate is also not presented for our verification."

**Response:**

In respect of the observation relating to conversion of debentures+ interest etc. of Rs. 60.32Cr into equity including non-submission of Terms of CCD etc, we wish to state that, the Conversion of debentures into equity was carried out in accordance with Section 62(3) of the Companies Act, 2013,

after obtaining requisite approval from the shareholders which satisfies the requirements of that section. The terms of issue of the Compulsory Convertible Debentures is enclosed herewith as **Annexure 1**.

Given that the conversion of Compulsory Convertible Debentures into equity was carried out by the transferor company in accordance with the Section 62(3) there was no requirement to obtain the valuation report. For further clarity we quote section 62(3) below:

*"(3) Nothing in this section shall apply to the increase of the subscribed capital of a company caused by the exercise of an option as a term attached to the debentures issued or loan raised by the company to convert such debentures or loans into shares in the company:*

*Provided that the terms of issue of such debentures or loan containing such an option have been approved before the issue of such debentures or the raising of loan by a special resolution passed by the company in general meeting."*

Further, since no interest payments were actually made by the Company on the CCDs, and the interest was instead capitalized and converted into equity, no TDS liability arose in respect of such interest. Consequently, the question of obtaining a certificate under Section 281 did not arise.

It is respectfully submitted that **Section 56(2)(vii)(b)** of the Income-Tax Act, 1961 applies **only** to a company in which the public are **not substantially interested**, and only where such **closely-held company** receives consideration for issue of shares from a resident person, in excess of the fair market value of such shares. In the present case, the **Transferor Company** is a **wholly-owned subsidiary** of the **Transferee Company**, which is a **listed company**.

The Transferee Company, being a **listed entity**, is a company in which **the public are substantially interested**, and consequently, the Transferor Company also qualifies as a **company in which the public are substantially interested** within the meaning of **Section 2(18)** of the Act. Therefore, the fundamental condition precedent for invoking Section 56(2)(vii)(b) does **not arise**.

Accordingly, **no valuation requirement under Rule 11UA arises**, and the conversion of CCDs at the agreed conversion price cannot be treated as income or subjected to tax under Section 56(2)(vii)(b).



With respect to the points made in the CA report on Section 2(22)(e) of the Income-tax Act, 1961, it is respectfully submitted that **Section 2(22)(e)** is attracted only where a **closely-held company makes a loan or advance to a shareholder** who is beneficially holding not less than 10% of voting power, and such transaction represents a **payment by the company to its shareholder** out of accumulated profits. The section contemplates **distribution of profits by way of loans or advances** in lieu of dividend. In the present case, however, the situation is **exactly the reverse** — the Transferor Company has **received funds from its shareholder** and has **not advanced any loan** or provided any benefit to the shareholder.

Since **the flow of funds is from the shareholder to the company**, and not from the company to the shareholder, **the basic condition for applicability of Section 2(22)(e) is not satisfied**. Accordingly, the amount borrowed through issue of CCD and later converted into share capital **cannot be treated as deemed dividend** under Section 2(22)(e) of the Act.

Furthermore, the shares so issued to the Transferee Company are proposed to be **cancelled upon sanction of the Scheme of Amalgamation**. As a result, **no gain or benefit accrues to the Transferee Company** from this transaction.

**Observation to para 3 (v) of the Chartered Accountant Report:**

***“(V) Pending charge shown in MCA Master data:***

*That, as per MCA master data taken print recently on 27/10/2025 in respect of Transferee Company there are pending open charges created in favour of HDFC Bank on 30/7/2020, The Hongkong and Shanghai Banking Corporation Limited on 29/7/2020, Industrial Development Bank of India on 3/6/1994, State Bank of Travancore on 26/3/1993, The Industrial Credit & Investment Co. of India on 21/10/1992, Indian Bank on 6/2/1998, The British Bank of the Middle East on 31/05/1982, Indian Bank on 30/4/1981, Indian Bank on 26/5/1980, The Industrial Credit and Investment Co. of India Ltd. on 14/3/1980, Indian Bank on 15/02/1980, Indian bank on 29/4/1994, Indian bank on 21/12/1973, Indian Bank on 30/10/1973, Andhra Pradesh State financial Corporation Limited on 21/7/1993, Indian Bank on 30/6/1973, Indian Bank on 26/6/1973, Indian Bank on 22/6/1973, Indian bank on 20/6/1973, Indian bank on 20/6/1973 and Indian Bank on 28/5/1973 which are not shown as satisfied/repaid as per Master Data. However, the financials of Transferee Company for 2023-24 do*

*not show any such secured creditors. This may be clarified by the Companies to this Hon'ble Tribunal. The copy of the master data of Transferee Company is enclosed as **Annexure-3**.”*

**Response:**

The Petitioner Companies respectfully submit that as on the cut-off date, i.e., September 30, 2024, the Transferee Company does not have any secured creditors, in terms of any outstanding dues, borrowings, or other financial liabilities.

It is, however, submitted that certain secured charges are reflected on the Ministry of Corporate Affairs (MCA) portal under the “*Index of Charges*”, which pertain to sanctioned working capital facilities extended by respective lenders. These facilities were sanctioned but not availed or utilized by the Transferee Company as on the said date. Consequently, no sums are outstanding or payable to any of the said lenders.

Additionally, the unaudited financial results of the Company for the half-year ended September 30, 2024 have been duly disseminated to the stock exchanges and are enclosed herewith for reference.



S. No	Name of the financial institution	Amount in Rs	Nature of facility	Charge ID
1	HDFC BANK LIMITED	25,00,00,000	Working Capital Demand Loan, Cash Credit, Letter of Credit, Bill Discounting	100361348
2	THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED	51,00,00,000	Working Capital Demand Loan, Cash Credit, Letter of Credit, Bill Discounting	100367259

Kindly note that loans listed under S. No. 1 and 2 in the above tabulation are currently outstanding.

The Petitioner Companies further submit that certain legacy charges continue to appear as "open" on the MCA portal, although the corresponding loans were fully repaid and satisfied prior to the year 2000. These charges pertain to loans earlier availed from institutions such as Industrial Development Bank of India, State Bank of Travancore, Indian Bank, The Industrial Credit & Investment Corporation of India (ICICI), and others, as listed in the Annexure 3 of the Official Liquidator Report.

The Petitioner Companies clarify that, since these loans were closed prior to the introduction of the present electronic filing system of the MCA, and owing to the non-availability of original charge satisfaction documents filed decades ago, the digital satisfaction of such charges could not be recorded in the MCA database.

The Transferee Company undertakes to initiate appropriate corrective action, including liaising with the concerned financial institutions and the Registrar of Companies, Chennai, for the purpose of filing charge satisfaction forms and updating the MCA records, in accordance with the provisions of the Companies Act, 2013, and the rules made thereunder.

**Observation to para 3 (vi) of the Chartered Accountant Report:**

**"vi. Mismatch about Rs 8 Cr. debentures, in audited financials of both companies:**

*That the Assets side of the Balance Sheet of Transferee Company for 2023-24 disclose that the Transferee Company has invested into Compulsorily Convertible debentures of Transferor Company for an amount of Rs 8 Cr. Copy of extract of Assets forming part of financial statements of Transferee Company is enclosed **Annexure-1**. However, the liabilities/equity side of the Balance Sheet of Transferor Company for the same year 2023-24 do not show/disclose such debentures of Rs 8 Cr. Copy of the extract of Liabilities/Equity forming part of financial statements of Transferor Company for the year 2023-24 is enclosed as **Annexure-2**. The said mismatch needs to be clarified to this Hon'ble Tribunal by the Companies."*

**Response:**

In response to the observation regarding the mismatch between the Compulsorily Convertible debentures ('CCD') investment disclosed by the



Transferee Company and the absence of a corresponding CCD liability in the books of the Transferor Company, the Companies submit the following:

The Transferor Company had issued CCDs on various dates starting from the Year 2025 till the year 2017 totalling to Rs 46.46 crores. Thereafter on 28 December 2022 the company converted part of the CCDs into equity shares totalling to Rs 38.46 crores. The balance Rs 8 crores were retained as CCDs in the books of the Transferee company and the Transferor Company during the Financial Year ended 31 March 2024.

To understand the representation in this respect in the financial statement we wish to present reproduce the **Note no 10 on other equity** of the Financial Statements of the Transferor Company for the Financial Year FY 2021-22

B Other Equity			
Particulars	Retained Earnings	Equity component of Compound Financial Instruments Rupees in Lakhs	Total
As at March 31, 2020	(1,323.26)	4,646.52	3,323.22
Add/ (Less)			
Profit/ (loss) for the year	(304.24)		(304.24)
Other comprehensive income for the year			
Further Subscriptions during the year			
Total Comprehensive Income for the year	(304.24)		(304.24)
As at March 31, 2021	(1,627.50)	4,646.52	3,019.02
Add/ (Less)			
Profit/ (loss) for the year	(124.27)		(124.27)
Other comprehensive income for the year			
Further Subscriptions during the year			
As at March 31, 2022	(1,751.77)	4,646.52	2,894.75

We refer to the column Equity Component of Compound Financial Instruments which mentions Rs 4646.52 lakhs.

Thereafter in the year 2022 since part of the CCDs were converted to the extent of Rs 38.46 crores, a suitable adjustment was done in Other equity, as is evident from the extract of the financial statement of the Transferor Company reproduced below for the Financial Year 2023-23 and FY 2023-24.

c) Details of shareholders holding more than 1% shares				
Particulars	No. of shares	31-Mar-24		21-Mar-23
		% Holding	No. of shares	% Holding
Indo National Limited	1028848	100%	1028848	100%
<b>OTHER EQUITY</b>				
Opening Balance			2902.51	2902.51
Share Premium on Equity issued during the year			5428.51	5428.51
Equity conversion from Compulsorily convertible Debenture			(3848.52)	(3848.52)
(Balance in Statement of Profit & Loss)			(56.58)	(52.55)
Balance			4,428.24	4,424.38

The difference between the outstanding CCD which is Rs 46.46 crores and converted portion which is Rs 38.46 crores is **Rs 8 crores**, which though not expressly stated in the Note on other equity, forming part of the Financial Statements of the Transferor Company for the year ended 31 March 2023 and 31 March 2024, it is forming part of the closing balance of Rs 4428.24 Lakhs.

The Company has however, provided a detailed note on conversion of the debentures in Note 9 on Share capital as required under IND AS 32, which is reproduced below:

**8) Rights, preferences and restrictions attached to Equity Shares**  
 During the financial year 2023-23, the company converted the Compulsorily Convertible Debentures into Equity Shares at a premium of Rs 50/- and allotted the same to the Holding Company. Further the company also converted certain Short Term Loans provided alongwith interest accrued into Equity shares at par. The total number of Equity shares issued during the year amounts to 1,22,12,842 equity shares of Rs 10/- each. Each holder of Equity shares is entitled to One vote per share. In the event of Liquidation of the Company, the holders of Equity shares will be entitled to receive remaining assets of the company. The distribution will be in proportion to Equity shares held by the shareholders. The dividend proposed by the Board of Directors is subject to approval of shareholders at the ensuing Annual General Meeting, except in the case of Interim Dividend.



**Observation to para 3 (vii) of the Chartered Accountant Report:**

**“(vii) Notice to Reserve Bank of India:**

*That the statutory auditor’s report dated 27/5/2024 in respect of Transferor Company for the year 2023-24 contained reference to Annexure-A to such auditor’s report. However, such Annexure-A forming part of the statutory auditor’s report is not found attached at / after page no.1230 of Company Petition, which will have information / report of Statutory Auditor about whether the company is required to register with Reserve Bank of India being a Finance/NBFC/CIC Company as evident from its main objects and also form its audited financials. However, it is noticed that notice of the scheme is not issued to the Sectoral Regulator viz. Reserve Bank of India. Hence, this Hon’ble Tribunal may be pleased to direct the companies to issue of notice of scheme to Reserve Bank of India and furnish full set of audited financials (including Board Report & Annexure-A) to Official Liquidator.”*

**Response:**

In respect of the observation relating to the non-enclosure of Annexure-A to the Statutory Auditor’s Report and the issuance of notice to the Reserve Bank of India, the Petitioner Companies respectfully submit as under:

It is submitted that the Transferor Company had inadvertently omitted to annex Annexure-A to the Companies (Auditor’s Report) Order, 2020, as required under Section 143(11) of the Companies Act, 2013, at the time of filing the Company Application. The said Annexure-A forms an integral part

of the Auditor’s Report for the financial year 2023–24. The same is now duly enclosed and placed on record as **Annexure-2** along with the Board’s report for the kind consideration of this Hon’ble Tribunal.

Furthermore, Annexure-A to the Auditor’s Report specifically confirms that the Transferor Company is not required to be registered under Section 45-IA of the Reserve Bank of India Act, 1934 and hence the reporting requirement under Clause 3(xvi)(a), (b), and (c) of the Companies (Auditor’s Report) Order, 2020 is not applicable. The Auditor’s Report further confirms that the Company is a Core Investment Company (CIC) as defined under applicable RBI regulations and continues to satisfy the eligibility criteria of a CIC. This certification by the statutory auditors further evidences that the Company is not categorized as an NBFC requiring registration with RBI.

Therefore, since the Transferor Company is only an unregistered CIC and does not fall under the supervisory or regulatory purview of the Reserve Bank of India under the NBFC framework, the requirement of serving notice of the Scheme of Amalgamation to the Reserve Bank of India under the NCLT Amalgamation Rules or under RBI’s NBFC Merger / Change-of-Control guidelines does not arise in the present case.

In view of the above submissions, the Petitioner Companies most respectfully pray that the clarifications furnished herein, along with the filing of Annexure-A, may be taken on record and that this Hon’ble Tribunal may be pleased to proceed with the approval of the Scheme of Amalgamation.

## 9. ACCOUNTING TREATMENT

It is stated that the certificates issued by the Statutory Auditors certifying the Accounting Treatment of the petitioner companies are in



compliance with Section 133 of the Companies Act, 2013 are placed on record.

## **10. OBSERVATIONS OF THIS TRIBUNAL**

10.1. This Tribunal is of the view that the scheme as contemplated by the Petitioner companies seems to be *prima facie* not, in any way detrimental to the interest of the members of the Companies. In view of the absence of any material objections from any statutory authorities and since all the requisite statutory compliances have been fulfilled, this Tribunal sanctions the Scheme of Amalgamation as well as the prayer made therein.

10.2. Notwithstanding the above, if there is any deficiency found or, the violation committed qua any enactment, statutory rule or regulation, the sanction granted by this Tribunal will not come in the way of action being taken, albeit, in accordance with the law, against the concerned persons, directors and officials of the petitioners.

10.3. While approving the Scheme as above, it is clarified that this order should not be construed as an order in any way granting exemption from payment of stamp duty, taxes or any other charges, if any, payment is due or required in accordance with law or in respect to any permission/compliance with any other requirement which may be specifically required under any law.

## **11. THIS TRIBUNAL DO FURTHER ORDER**

- (i) That all properties, rights and interests of the 1<sup>st</sup> Petitioner Company shall, pursuant to Section 232(3) of the Companies Act, 2013 without further act or deed be transferred to and vest



in or be deemed to have been transferred and vested in the 2<sup>nd</sup> Petitioner Company in terms of the Scheme.

- (ii) That all the liabilities, powers, engagements, obligations and duties of the 1<sup>st</sup> Petitioner Company shall pursuant to Section 232(3) of the Companies Act, 2013 without further act or deed be transferred to and vest in or be deemed to have been transferred and vested in the 2<sup>nd</sup> Petitioner Company in terms of the Scheme.
- (iii) That the 'Appointed Date' for the Scheme shall be **01.04.2024** as mentioned in Sub clause iii, Clause I, Part A of the Scheme.
- (iv) That the 'Effective Date' shall be defined as per the Sub clause ix, Clause I, Part A of the scheme.
- (v) That the 'Record Date' for the Scheme is not defined in the Scheme.
- (vi) That all proceedings now pending by or against the 1<sup>st</sup> Petitioner Company shall be continued by the 2<sup>nd</sup> Petitioner Company.
- (vii) That all the employees/ workmen of the 1<sup>st</sup> Petitioner Company in service on the date immediately preceding the date on which the Scheme finally takes effect shall become the employees of the 2<sup>nd</sup> Petitioner Company without any break or interruption in their service with all the benefits.
- (viii) That the 2<sup>nd</sup> Petitioner Company shall file the revised Memorandum and Articles of Association with the Registrar of



Companies, concerned and further make the requisite payments of the differential fee (if any) for the enhancement of authorized capital of the 2<sup>nd</sup> Petitioner Company after setting off the fees paid by the 1<sup>st</sup> Petitioner Company.

- (ix) That the Petitioner Companies, shall within thirty days of the date of receipt of this order cause a certified copy of this order to be delivered to the Registrar of Companies for registration and on such certified copy being so delivered, the Registrar of Companies shall place all documents relating to the 1<sup>st</sup> Petitioner Companies registered with him on the file kept by him in relation to 2<sup>nd</sup> Petitioner Company shall be consolidated accordingly.
- (x) That any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.

**12.** Accordingly, the Company Petition **CP(CAA)/48(CHE)/2025** stands **Allowed** on the aforementioned terms and is disposed of.

**-Sd-**

**RAVICHANDRAN RAMASAMY**  
MEMBER (TECHNICAL)

**-Sd-**

**JYOTI KUMAR TRIPATHI**  
MEMBER (JUDICIAL)